

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

Docket No. 98-AFC-1

Application for Certification of
the Pittsburg District Energy
Facility

_____ /

BUCHANAN PARK COMMUNITY CENTER

4150 Harbor Street

Pittsburg, California

Reporter's Transcript

May 4, 1999

--oOo--

Reported By: Keli Rutherford, CSR No. 10084

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

APPEARANCES

Commissioners Present:

David A. Rohy, Ph.D.

Michal Moore

Staff Present:

Susan Gefter, Hearing Officer

For the Staff of the Commission:

Dick Ratliff

Lorraine White

For the Applicant:

Allan Thompson, Attorney at Law

Samuel L. Wehn, Enron Capital & Trade Resources Corp.

C.J. Patch, III, Patch Incorporated

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1	INDEX	
2		Page
3	Introductions	4
4	Presentation of Witness' Testimony in Subject Areas	
5	Land Use	5
6	Facility Design and Geology	19
7		
8		
9		
10		
11	--oOo--	
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 P R O C E E D I N G S

2 TUESDAY, MAY 4, 1999, PITTSBURG, CALIFORNIA, 9:23 a.m.

3 HEARING OFFICER GEFTER: This is a continuation of
4 the evidentiary hearing on the Pittsburg District Energy
5 Facility. We are here to conduct evidentiary hearing on
6 Enron's applications for an AFC for the Pittsburg District
7 Energy Facility.

8 Before we begin, we'd like to introduce the committee
9 and ask the parties to introduce themselves for the record.
10 The committee consists of Vice Chair Dave Rohy, Commissioner
11 Michael Moore, advisors Bob Eller and Sean Pittard. I'm
12 Susan Gefter, the hearing officer.

13 Ask the applicant to introduce themselves.

14 MR. THOMPSON: My name is Allan Thompson representing
15 Enron. With me today are Mr. Joe Patch from Patch
16 Incorporated, lead outside engineer, and Robert Ray, lead
17 environmental with URS Woodward-Clyde. Mr. Sam Wehn will
18 attempt to get here. He's working on a vital part of this
19 case.

20 HEARING OFFICER GEFTER: And staff?

21 MR. RATLIFF: I'm Dick Ratliff, counsel to staff.

22 MS. WHITE: I'm Lorraine White, the project manager
23 responsible for the coordination of the staff assessment.

24 HEARING OFFICER GEFTER: Are there any other parties
25 here today? Any other representatives from parties?

26 I see representative from Delta.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 MR. CAUSEY: Delta Diablo Sanitation District, Paul
2 Causey, C-a-u-s-e-y.

3 MS. STRACKEN: Susan Stracken with Delta Energy
4 Center.

5 HEARING OFFICER GEFTER: Any other parties?

6 MR. HALL: Jack Hall, city of Antioch.

7 HEARING OFFICER GEFTER: Anyone from city of
8 Pittsburg here this morning?

9 Does the applicant expect to sponsor any city of
10 Pittsburg testimony today?

11 MR. THOMPSON: No, we do not.

12 HEARING OFFICER GEFTER: The two topics we have for
13 this morning's hearing are land use and facility design, and
14 we can open with Land Use. We'll ask the applicant to
15 present their witness at this time.

16 MR. THOMPSON: Thank you. Applicant would like to
17 call Ms. Shabnam Barati.

18 BY MR. THOMPSON:

19 Q. You've been previously sworn?

20 A. Yes.

21 Q. Ms. Barati, you are here today in the area of land
22 use?

23 A. That's right.

24 Q. Your prepared testimony is included in this
25 application as part of Exhibit 30?

26 A. That's right.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Q. Do you have any corrections, additions, or deletions
2 to make to your land use testimony?

3 A. No.

4 Q. Would you please very briefly summarize your
5 testimony.

6 A. Yes. For purposes of evaluating project impacts on
7 land use, we started with defining a study area, one-mile
8 radius study area around the project site and half-mile wide
9 corridor along all the linear facilities. Then we proceeded
10 to establish existing land uses within these study areas
11 that were defined, as well as the general plan designations
12 for the parcels that are within the areas, as well as the
13 zoning designations of the affected parcels.

14 The project does affect three jurisdictions: City of
15 Pittsburg, city of Antioch, and unincorporated Contra Costa
16 County. We also looked at the general plans for all three
17 jurisdictions to identify policies that could be pertinent
18 to the project.

19 Once that was done, we looked at the project
20 information in terms of what it would do to existing and
21 planned land uses within defined study areas. And the focus
22 there was would it result in any displacement impacts or
23 displacement uses? Would it be incompatible with adjacent
24 land uses? Or would it be inconsistent with plans and
25 policies adopted for those parcels that are within the study
26 areas?

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Our evaluation showed that the project would not have
2 any direct impacts because the project site is wakened right
3 now and it is designated for industrial use. It would --
4 the linear facilities would also not have any impacts
5 because they are going to follow existing utility corridors
6 or public right-of-ways or similar alignments.

7 And with respect to -- there are a couple of design
8 features part of the project that also avoid land use
9 impacts. One is the undergrounding of the transmission line
10 in the 8th Street segment, and the other aspect of it is the
11 bypass route, the truck bypass route, which awards trucks
12 from traveling on residential streets. So by design to it
13 avoids land use impacts.

14 Our conclusion was that the project would not result
15 in any land use impacts, direct or indirect, and would be
16 compatible with plans and policies adopted by these
17 jurisdictions here.

18 Q. Thank you. Am I correct that today you are
19 sponsoring Exhibit 1 1-5.9, the land use section of the AFC,
20 and Exhibit 2 2-LAND-1, which is applicant's response to
21 staff data request one in the land use area?

22 A. That's right.

23 Q. Have you reviewed the staff assessment and the
24 conditions of certification and verification in the land use
25 area?

26 A. I have.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Q. And do you recommend to the Pittsburgh District Energy
2 Facility that they adopt those conditions and verifications?
3 A. I do.
4 MR. THOMPSON: Thank you. Ms. Barati is tendered for
5 cross-examination.
6 HEARING OFFICER GEFTER: Does staff have
7 cross-examination of the witness?
8 MR. THOMPSON: No.
9 HEARING OFFICER GEFTER: Does any party have
10 cross-examination? Committee?
11 Thank you. The witness is excused.
12 THE WITNESS: Thank you.
13 HEARING OFFICER GEFTER: Is staff ready to present
14 your witness?
15 MR. RATLIFF: Yes. The staff witness is Eric Knight.
16 Mr. Knight needs to be sworn.
17 (Witness sworn.)
18 BY MR. RATLIFF:
19 Q. Mr. Knight, did you prepare the staff testimony in
20 the staff assessment titled Land Use?
21 A. I did.
22 Q. Did you prepare the supplemental testimony of the
23 same name?
24 A. I did.
25 Q. Are those pieces of testimony true and correct to the
26 best of your knowledge and belief?

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 A. They are.

2 Q. Do you have any changes to make in them at this time?

3 A. No changes.

4 Q. Could you summarize them briefly?

5 A. Sure. Staff's land use analysis of the Pittsburgh
6 District Energy Facility focuses on two main issues: Number
7 one is the project's consistency with local land use plans,
8 ordinances, and policies, being referred to as LORS; and
9 two, the project's compatibility with existing and planned
10 land uses. Indirect land use impacts, such as traffic, air
11 quality, visual effects, and noise are addressed by the
12 corresponding technical disciplines.

13 In conducting my analysis I relied upon the following
14 criteria and LORS: Appendix G of the guidelines to the
15 California Environmental Quality Act provides that a
16 criterion for evaluating whether a project will have a
17 significant effect on land use is whether it will conflict
18 with any applicable land use plans, policies, or
19 regulations.

20 I reviewed all the relevant regulatory documents to
21 determine the extent to which the PDEF is consistent or at
22 variance with the requirements or standards established in
23 this document. I reviewed the following regulatory
24 documents: The city of Pittsburgh General Plan and Zoning
25 Ordinance and the Downtown Specific Plan and the city of
26 Antioch and Contra Costa County General Plans and Zoning

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 ordinances.

2 The land use analysis also makes a determination of
3 the project's compatibility with existing and planned land
4 uses. Appendix G of the CEQA guidelines provides the
5 criterion for evaluating whether a project will have a
6 significant effect on land use is whether it will physically
7 divide an established community.

8 In assessing the project's compatibility with
9 existing and planned land uses, on several occasions I
10 visited the project site and the surrounding area, including
11 the linear facility routes. I also relied on General Plan
12 and zoning maps and information and maps provided in the
13 applicant's AFC. Additionally, I consulted with local
14 planning staff of the planning departments and
15 representatives from Delta Diablo Sanitation District.

16 In the course of my analysis I identified several
17 potential issues: Number one is the PDEF heat recovery
18 steam generator or HRSG stacks at a hundred and fifty feet
19 and the auxiliary boiler stack at a hundred feet exceed the
20 fifty-foot maximum height allowed in the General Industrial
21 zoning district, which this project is in.

22 The Pittsburg zoning ordinance allows two exceptions
23 to the height restriction. These exceptions have been
24 identified by the city of Pittsburg in two previous cases to
25 be cumulative up to a maximum of ninety-five feet. Thus, to
26 be in conformance with the zoning ordinance, the PDEF will

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 require a variance of fifty-five feet for the HRSG stack and
2 five feet for the auxiliary boiler stacks.

3 The applicant filed its variance request to the city
4 of Pittsburgh on April 21st of this year. Due to the public
5 interest in this case, the findings for the variance will be
6 made by the Pittsburgh Planning Commission, which will use
7 the committee's Presiding Member's Proposed Decision as its
8 necessary environmental document for ruling on the variance
9 request.

10 The Planning Commission will make its decision at a
11 public hearing -- expected to make its decision at a public
12 hearing on June 22nd, followed by a ten-day appeal period.
13 Therefore, the outcome of the variance request will be known
14 prior to the Energy Commission adopting its final decision
15 on July 28th of this year.

16 A second issue relates to the gas pipeline routing.
17 In a letter to staff dated March 4th, 1999, the City of
18 Antioch raised the issue that some residential properties
19 may be encroaching on the PG&E easement that the PDEF gas
20 pipeline will use. Staff visited the area and agrees with
21 Antioch that the alignment of backyard fencing appears to be
22 questionable and may be encroaching on the easement.

23 In Antioch gas pipelines normally require a
24 conditional use permit. In a meeting on April 7th with
25 staff, Antioch requested that staff include a condition of
26 certification requiring the applicant to replace any fencing

1 removed or displaced as a result of construction of the
2 pipeline and that the design and material used be to the
3 city's specifications. This condition has been incorporated
4 into staff's revised testimony as LAND-3.

5 Antioch also raised concerns about the safety due to
6 the pipelines proximity to the residents. It travels
7 through a residential area. To ensure safety during
8 construction and operation of the pipeline, staff has
9 proposed condition of certification MECH-5 in its Facility
10 Design testimony.

11 The third issue relates to the 8th Street corridor.
12 In staff's cumulative impact analysis, staff identified a
13 potentially significant land use impact due to the fact that
14 both the PDEF and the Delta Energy Center will use the 8th
15 Street corridor as the route for its underground
16 transmission lines. The width of the current easement
17 within the 8th Street median is fifty feet, which is not
18 large enough for both projects.

19 To accommodate the PDEF transmission line, the city
20 of Pittsburg intends to condemn a subsurface easement
21 underneath the eastbound lane of 8th Street and then require
22 the applicant to obtain a franchise agreement for the
23 long-term right to use the 8th Street easement. The Delta
24 Energy Center plans to use the existing easement in a median
25 of 8th Street.

26 The city has also expressed its desire that the two

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 applicants coordinate their construction activities in the
2 8th Street corridor to minimize disturbance to the adjacent
3 areas. Staff has proposed a condition of certification
4 LAND-5 to ensure that the PDEF coordinates with Delta Energy
5 Center the construction of the transmission lines within the
6 8th Street corridor.

7 In addition PDEF has agreed to construct the city's
8 linear park in the 8th Street corridor and staff has
9 proposed a condition of certification LAND-4 to ensure that
10 the park is built to the city's satisfaction.

11 In conclusion, because the project's HRSG stacks and
12 the auxiliary boiler stack will exceed the height
13 restriction prescribed by the Pittsburgh Zoning Ordinance,
14 staff cannot recommend a conformity finding pursuant to
15 Public Resources Code section 25525.

16 If PDEF is granted a variance from the city of
17 Pittsburgh to exceed the ninety-five-foot height limitation
18 in the General Industrial Zoning District and complies with
19 staff's proposed conditions LAND-1, -2 and -6, the project
20 will be in conformance with all applicable LORS. Those
21 three conditions that I just read address requirements in
22 the Pittsburgh Zoning Ordinance and Pittsburgh Municipal Code.

23 In addition, staff has concluded that the power plant
24 will be compatible with existing and planned land uses
25 because one, the proposed use is consistent with the current
26 general plan and zoning designations of the property, which

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 is general industrial; two, it will be compatible with the
2 heavy industrial character of the immediately adjacent land
3 uses, which include the PMT petroleum coke handling
4 facility, GWF Power Plant #1, and USS/POSCO steel mill;
5 three, the site does not abut any residential areas; and
6 four, distance and/or other structures will provide
7 buffering for the residential uses in the general vicinity
8 of the plant.

9 In regards to the project's linear facilities, staff
10 has concluded that they also will be compatible with
11 existing and planned land uses because the linears will, for
12 the most part, follow existing utility corridors or rights
13 of way and avoid Delta Diablo Sanitation District
14 infrastructure.

15 In addition, the gas and water pipelines, as well as
16 the segment of the transmission line that travels through
17 the existing and planned residential areas will be
18 underground.

19 The adverse visual impacts of the electrical
20 transition structures identified by staff will be mitigated
21 through conditions established in the Visual Resources
22 testimony.

23 The 1992 EIR for the Waterfront Truck Route of which
24 the truck bypass road is a part and is basically similarly
25 found that the truck bypass would be consistent with the
26 Pittsburg General Plan. It will be compatible with the

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 existing land uses since it will not physically divide the
2 Central Addition residential neighborhood and the ball field
3 will be relocated and not impacted.

4 In addition, staff has not identified any significant
5 adverse impacts associated with the truck bypass that cannot
6 be mitigated. The installation of the applicant proposed
7 landscaping along the truck bypass is consistent with the
8 General Plan Land Use map which shows a linear park in this
9 area, as well as mitigation measures contained in the 1992
10 EIR. Thus, with staff's proposed conditions and if
11 Pittsburg grants the variance, staff does not expect
12 significant adverse impacts to land use.

13 If the Energy Commission approves the project, staff
14 recommends that the Commission adopt the conditions of
15 certification which are outlined in staff's revised
16 testimony.

17 Q. Does that complete your summary?

18 A. Yes, it does.

19 MR. RATLIFF: Witness is available for questioning.

20 HEARING OFFICER GEFTER: Does the applicant have
21 cross-examination?

22 MR. THOMPSON: Yes.

23 BY MR. THOMPSON:

24 Q. Actually, just two areas, Mr. Knight. In both of the
25 areas that I want to ask you questions about in the
26 supplemental, LAND-1 requires a -- verification to LAND-1

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 requires thirty days prior to construction evidence of
2 compliance with section 1854015.

3 Is that the variance you were just speaking about for
4 the height?

5 A. That section refers to property development
6 regulations for facilities in an industrial -- general
7 industrial district. Well, it does -- there is the section
8 in there is the fifty-foot height maximum. There's also
9 conditions in there about maximum FAR and other types of
10 development regulations.

11 Q. Because we want to start construction of the bypass
12 road immediately upon receiving a final decision, would you
13 have any difficulty with adding the words after the term
14 "construction" on the first line "of the power plant?"

15 A. No, I would not.

16 Q. Thank you. The second point in LAND-4, would you
17 agree with me that the linear park language there was not
18 meant to suggest that only the PDEF was to build the park
19 but that it would be a joint venture or joint effort by PDEF
20 and if the Delta Energy Center uses the same corridor, the
21 two -- Delta and PDEF would do it together?

22 A. That's correct. I would require the same condition
23 of Delta Energy Center.

24 MR. THOMPSON: Great. That's all I have. Thank you
25 very much.

26 HEARING OFFICER GEFTER: Was there any change in the

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 language of that condition or are you satisfied --

2 MR. THOMPSON: I'm satisfied that the language reads

3 the way we want.

4 HEARING OFFICER GEFTER: Thank you. Any

5 cross-examination of the witness by any parties present from

6 Delta Energy? City of Antioch? Committee?

7 COMMISSIONER MOORE: Negative.

8 HEARING OFFICER GEFTER: I have --

9 MS. MENDONSA: Susan, can I interrupt?

10 After you began the proceeding, city of Pittsburgh now

11 has a representative here.

12 HEARING OFFICER GEFTER: Excellent. Can you identify

13 yourself for the record?

14 MR. JEROME: My name is Randy Jerome. I'm the

15 planning manager for the city of Pittsburgh.

16 MS. WHITE: Jeff was here.

17 HEARING OFFICER GEFTER: Do you have any information

18 that you would like to on the record?

19 MR. JEROME: I believe the information that

20 Mr. Knight gave was accurate as corrected for the height

21 variance.

22 (Pause in proceeding.)

23 HEARING OFFICER GEFTER: My question goes to the city

24 of Pittsburgh, so if you could come forward and be sworn. I

25 don't know -- I would like you to answer a couple of

26 questions.

1 (Witness sworn.)

2 BY HEARING OFFICER GEFTER:

3 Q. State your name and position with the city.

4 A. My name is Randy Jerome. I'm the planning manager
5 for the city of Pittsburgh.

6 Q. Mr. Jerome, a letter was sent to the Energy
7 Commission staff on March 26th from the city of Pittsburgh.
8 It was in the docket of this case, signed by Jeff Kolin,
9 city manager. I'm not sure if you are aware of the letter,
10 and we'll pass this to you, and we can mark this as an
11 exhibit next in order, Exhibit 41. I don't know if the
12 parties looked at the letter, but it was docketed.

13 Are you familiar with that?

14 A. Yes.

15 Q. That letter lists the various land use issues that
16 the city would have if this project were not being licensed
17 by the state of California but would be licensed in the
18 city.

19 Are you familiar with the content of that letter?

20 A. Yes.

21 Q. Is the city satisfied, then, that the conditions
22 contained in the staff's assessment would satisfy the
23 requirements of the city's permitting agency?

24 A. Yes, we are.

25 Q. And is that the purpose of that letter?

26 A. Yes. The purpose of this letter, which was to

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 address questions brought by CEC's staff pertaining to the
2 various obligations and regulations of the Pittsburg Zoning
3 Ordinance and General Plan.

4 HEARING OFFICER GEFTER: Do any of the parties have
5 questions of the witness regarding city of Pittsburg's
6 letter or any other issues regarding land use from the city
7 of Pittsburg's point of view? From committee? Any party?

8 I'm going to move that letter into evidence, if
9 there's any -- is there any objection from any party?

10 MR. RATLIFF: No.

11 HEARING OFFICER GEFTER: So the letter from the city
12 of Pittsburg to CEC staff dated March --

13 THE WITNESS: March 26th.

14 HEARING OFFICER GEFTER: -- March 26th is admitted
15 into evidence as Exhibit 41. That's all. Witness is
16 excused. Thank you very much.

17 We are now finished with the topic of Land Use, and
18 we can go on to the topic of Facility Design and Geology.

19 MR. THOMPSON: Thank you. Applicant has three
20 witnesses in this area. Applicant would like to call
21 Mr. Clark Fenton, please.

22 (Witness sworn.)

23 BY MR. THOMPSON:

24 Q. Mr. Fenton, will you please state your name for the
25 record.

26 A. I'm Clark Fenton.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Q. Are you the same Clark Fenton that submitted prepared
2 testimony that is included in Exhibit 30 to this proceeding?

3 A. I am.

4 Q. Your responsibilities in the area you are testifying
5 to today are Geologic Hazards and Resources, section 1-5.3
6 of the Application for Certification?

7 A. That's correct.

8 Q. Do you have any corrections, additions, or deletions
9 to make to that material?

10 A. No.

11 Q. Would you please very briefly summarize your
12 testimony.

13 A. I'm a senior geologist. I was in charge of the
14 Geologic Hazards and Resources section of the AFC. This
15 involved review of all pertinent geologic, geophysical, and
16 geotechnical data for the site and the surrounding region.
17 Sources were maps and reports from state Division of Mines
18 and Geology and U.S. Geologic Survey, published scientific
19 papers, and results of ongoing research within the arts
20 science community of the surrounding area of the power plant
21 or proposed park plan.

22 For earthquake hazards and ground shaking, we
23 analyzed earthquake catalogs from U.S. Geologic Survey and
24 again the state Division of Mines and Geology. For
25 foundation conditions and soil hazards, we reviewed
26 available geotechnical reports in the area of surrounding

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 the site.

2 We also carried out discussions with colleagues
3 carrying out current research in particular with respect to
4 earthquake and seismic hazards in the region, and we
5 incorporated fault data from the current U.S.G.S working
6 group which is charged with calculation of site hazard in
7 Northern California.

8 We also incorporated new fault data, which is, in
9 particular, the Pittsburg Kirby Hills fault and other
10 sources that we consulted here were maps of bedrocks,
11 superficial geology, and landslide geology. We also
12 consulted mineral uses and mineral resource reports from
13 state bureaus.

14 The report contains an overview of the general
15 geology and structure, the active faults and earthquake
16 sources, the estimated ground shaking, the earthquake
17 history of the region. And we also analyzed various
18 geologic hazards including faulting, ground shaking,
19 liquefaction, mass wasting and slope stability or
20 landslides, issues related to substance, and also expansive
21 soil. We also investigated potential geologic resources in
22 the area and found that there were none.

23 Our conclusions were that there were no significant
24 impacts from geologic hazards, provided that the mitigation
25 measures laid out in the AFC were followed.

26 Q. Have you reviewed the staff analysis in this case?

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 A. I have.

2 Q. Were there conditions of certification included in
3 that document in your area?

4 A. No.

5 Q. Does that complete your testimony?

6 A. It does.

7 MR. THOMPSON: Thank you very much. Mr. Fenton is
8 tendered for cross-examination.

9 HEARING OFFICER GEFTER: Does staff have
10 cross-examination?

11 MR. RATLIFF: No.

12 HEARING OFFICER GEFTER: Any other party have
13 cross-examination? Committee?

14 Witness may be excused, thank you.

15 MR. THOMPSON: Applicant would next like to call
16 Mr. Joe Patch. Mr. Patch has been previously sworn.

17 BY MR. THOMPSON:

18 Q. Mr. Patch, you are here today to testify in the area
19 of facility design; is that correct?

20 A. Yes.

21 Q. And the exhibits which you are sponsoring today
22 include Exhibit 1-4.1, which is the transmission and
23 interconnection design criteria, Exhibit 1-7.0, which are
24 the LORS, the laws, ordinances, regulations, and standards
25 in the engineering area, which is a compilation of LORS in
26 all of the engineering disciplines; is that correct?

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 A. Yes.

2 Q. And appendices to the AFC sections A, appendix A, the
3 heat material balance; B, the water balance water quality;
4 C, civil engineering; D, structural engineering; E,
5 mechanical engineering; F, electrical engineering; G, the
6 control systems; H, chemical engineering; and N, the
7 electric line costs; is that correct?

8 A. Yes, it is.

9 Q. Do you have any corrections, additions, or deletions
10 to make to any of that material?

11 A. No.

12 Q. For the benefit of the committee and the public,
13 would you please describe the project as applicant wishes
14 the committee and the Commission to describe it for the
15 public and for the purposes of what we will build.

16 A. Certainly. If I could begin the description, there
17 is a simulation that was prepared that is part of the AFC,
18 and I'm wondering if I can call that forward as part of
19 something to talk to?

20 Q. Yes. If you would please identify it either by page
21 or figure number.

22 (Pause in proceeding.)

23 THE WITNESS: I'd like to refer to figure 3.1-8 in
24 the AFC, and maybe I can just kind of lay it up here for the
25 time being.

26 Figure 3-1-8 is a photo simulation -- is a simulation

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 of the plant as is being proposed currently for the project.
2 It shows a two-on-one configuration. The equipment shown is
3 identified in other documents as particularly for the gas
4 turbine is a G.E. gas turbine model 7241.

5 The general process that is identified and shown here
6 is that there is a gas turbine and an HRSG, Heat Recovery
7 Steam boiler. The exhaust gas from the heat recovery steam
8 generator, exhaust gas from the gas turbine is brought
9 through the HRSG. In the HRSG steam is produced. Steam is
10 then taken to the steam turbine.

11 Each gas turbine will drive a generator. The steam
12 turbine will also drive a generator. That brings three
13 generator feeds, if you will, electrical feeds into the
14 switchyard. The fuel used is exclusively natural gas for
15 the gas turbines.

16 The HRSG has several other features in addition to
17 producing steam. The first element inside of the HRSG is a
18 CO catalyst. The CO catalyst has been installed as a proven
19 method to control CO emissions. Behind the CO catalyst at
20 another point in the gas stream is the SCR. The SCR is
21 installed with ammonia injection as a means of controlling
22 NOx production. In the stack as required we will have a
23 continuous emission monitoring system that will look for
24 oxygen, CO, and NOx.

25 The system for cooling has a six-cell cooling tower.
26 The cooling tower has a circulating system that brings water

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 to the surface condenser, which is beneath the steam
2 turbine. The steam that's exiting the steam turbine at very
3 low temperatures is condensed and change phase from the gas
4 to a liquid. The liquid is taken to the hot well of the
5 condenser, which is then returned back to the process as a
6 closed cycle system that goes back into the boilers, into
7 the HRSGs.

8 The circulating water, as it makes this conversion
9 from steam to water was brought back to the cooling towers
10 to the top of the towers where they spray in a distribution
11 system is installed such that the water comes back to the
12 top of the tower, is distributed back over the fill in the
13 tower, gently splashes down to the base of the tower, which
14 is the reservoir for the cooling water system. Air is
15 brought up through the towers by the fans that sit up on top
16 of the cooling tower, cools the water as it drips down
17 through the fill back into basin. That too is a closed
18 cycle. We have two closed cycles in the steam cycle as well
19 as the circulating water in the cooling cycle.

20 As we've talked in the past, the water that is
21 drifted down through the fill is evaporated. Those rates
22 have been established in the AFC as approximately fifteen to
23 sixteen hundred gallons a minute. Reclaimed water is
24 bringing block forward from the linears that are being
25 installed. From Delta Diablo tertiary-treated water will be
26 brought into the plant and will be used as makeup to the

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 cooling towers.

2 Subsystems that support that operation are the
3 demineralization system. Demineralized water will be taken
4 using reclaimed water will be brought into clarified,
5 purified to demineralized state that would be acceptable for
6 boiler use. That criteria is established typically in the
7 reference documents as we mentioned in the appendices that
8 are design codes and criterias.

9 The switchyard itself has been identified as a
10 breaker in a half scheme. The reason for the breaker in the
11 half scheme is really two-fold: One is over five circuits
12 into the switchyard typically would drive us in that
13 direction. More prominently the breaker in the half scheme
14 is designed and proposed as a way to produce high
15 reliability. It essentially offers multiple paths to exit
16 the switchyard should anything happen in the switchyard, a
17 breaker will open or generate a trip. We have multiple
18 paths for the balance of the operating equipment to be
19 brought out to the grid and to Posco.

20 There is an item that came up last night that I need
21 to correct. I was asked what the height of the ox boiler
22 stack would be. I said ninety-five feet. I was mistaken.
23 The ox boiler feet is a hundred feet. The HRSG stacks, as I
24 said last night, are a hundred fifty. I got that one right.

25 The linears that are associated with a project have
26 been identified here in the last couple of days with just to

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 touch on it one time.

2 In addition to the supply line that's being provided
3 with the tertiary-treated water from Delta Diablo there's
4 also a return line to Delta Diablo, which is a summation of
5 all of the blowdowns from the plant which include blowdowns
6 from the cooling tower, from the demineralization system,
7 and the HRSGs.

8 Transmission line, as we've discussed, is a 115 kV
9 system -- will be produced to Posco as well to the grid,
10 both in the underground and aboveground routes as have been
11 identify.

12 The fuel gas line will be brought in from Delta Fair,
13 currently identified on the maps as shown as the gas line to
14 the project site.

15 And I believe that probably is an overview, at least,
16 of the process and the description involved.

17 BY MR. THOMPSON:

18 Q. Thank you. Has the project, to your knowledge,
19 selected an EPC contractor?

20 A. No, we have not.

21 Q. Has the project solicited bids from EPC contractors?

22 A. Yes, the project has solicited bids from four
23 prequalified EPC contractors. Currently there are two that
24 identified as bidders that would be brought forward, I
25 believe, at the end of this week, the first of next week,
26 for final round of clarifications and the selection or at

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 least a recommendation being made within the next two weeks.

2 HEARING OFFICER GEFTER: Mr. Patch, could you say for
3 the record what EPC stands for?

4 THE WITNESS: Engineering Procurement and
5 Construction. These are turnkey contracts that are being
6 issued that will be issued for the project.

7 BY MR. THOMPSON:

8 Q. Am I correct that one of the documents that the PDEF
9 gave to potential EPC contractors was the staff analysis?

10 A. Yes. Both the initial FSA, as well as the
11 supplementary testimony.

12 Q. And I'm also correct that different contractors have
13 different ways of approaching a project, so there may be
14 some slight differences between how EPC contractors would
15 approach the design or construction of the project?

16 A. Yes, that's true.

17 Q. Now, finally with regard to the engineering
18 conditions of certification, have you reviewed the
19 conditions proposed by staff and do you have any comments?

20 A. Yes, I have reviewed them. I would like to make one
21 comment on the conditions of certification for facility
22 design.

23 We understand that there have been a number of
24 projects that have been built by others under either similar
25 or identical conditions of design. The issue or the
26 question, I guess, that I would like to raise is that there

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 has been, depending on people's experience, the need to,
2 with an EPC contractors we proposed on a schedule we've
3 proposed for this project, to ensure that when documents are
4 submitted for review, that that review is conducted in a
5 timely fashion, and that it reviews and approvals are
6 necessary or disapprovals, that they are provided in such a
7 timely fashion that the engineering and the material
8 associated with it and the construction that follows can be
9 performed in some sequence and/or if there are changes to be
10 made, that appropriate adjustments to the schedule and the
11 work can also be accommodated.

12 We understand this has happened essentially without
13 problems in the past. We would like to raise it as
14 something that should, for any reason, on a fast-track
15 schedule that we propose for this schedule, that become an
16 issue that we would like to be able to circle back through
17 the Commission's project manager, reviews are being done
18 through the Commission's project manager, as well as the
19 chief building official. And we would like to be able to
20 circle back and confirm that the commitments and the
21 turnaround times to support the project are, in fact, being
22 implemented.

23 Q. Mr. Patch, you are raising this issue not to ask the
24 committee to change the conditions of certification as they
25 appear as proposed but to highlight an area of your concern
26 that you may want some action on during construction or just

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 prior to construction; is that correct?

2 A. Yes, that's true.

3 Q. Does that complete your testimony?

4 A. Yes, it does.

5 MR. THOMPSON: Mr. Patch is offered for

6 cross-examination.

7 HEARING OFFICER GEFTER: Does staff have

8 cross-examination?

9 MR. RATLIFF: Just to clarify your final comments.

10 BY MR. RATLIFF:

11 Q. Mr. Patch, are you suggesting that if, for some

12 reason, the building official who is actually doing the

13 checks is somehow remiss or delayed in completing his

14 review, that the staff would be enlisted, in some way, to

15 try to see that, in fact, he does his duties in a timely

16 manner, or is it something else?

17 A. No. We would solicit staff's support in resolving

18 those issues.

19 MR. RATLIFF: That's all.

20 HEARING OFFICER GEFTER: Does any other party have

21 cross-examination of the witness? Committee?

22 COMMISSIONER MOORE: Negative.

23 BY HEARING OFFICER GEFTER:

24 Q. I just want to clarify again this last discussion

25 regarding expediting turnaround time.

26 A. Yes.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Q. Does the applicant wish to change the language of any
2 of the conditions to require some time line for turnaround
3 time?

4 A. Not at this time.

5 Q. I have a question regarding project description.
6 We've seen several different sections of the AFC and staff
7 assessment that site elevation will be twelve feet.

8 A. Yes.

9 Q. Is the applicant still intending to elevate the site
10 location, and will you describe the purpose for that and how
11 that will be done?

12 A. In the initial AFC, based on some very preliminary
13 topographic information, the site was identified between
14 currently existing six to eight feet. Since that time and
15 as part of the supplement in December, we've received
16 additional topographic information with aerial surveys and
17 have plotted that topography which showed that the site was
18 not at six or seven. It was between twelve and fifteen in
19 some areas.

20 So the twelve-foot elevation is not only continued to
21 take us out of the floodplain eight feet was the minimum
22 elevation or a foot above the elevation for the floodplain,
23 but it also provided us with an ability to use essentially
24 what is the existing site with the minimal amounts of
25 material being import and/or moved off the site.

26 BY COMMISSIONER MOORE:

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Q. Your point is that it's twelve feet MSL?

2 A. Yes.

3 Q. Not as applicant implied it was twelve feet above AGL

4 but MSL?

5 A. MSL.

6 COMMISSIONER MOORE: Right. Thank you.

7 BY HEARING OFFICER GEFTER:

8 Q. There was also a description of the aboveground

9 transmission line between the project and location at the

10 Pittsburg Power Plant substation two miles of double

11 circuit, a hundred and fifteen kV line.

12 What is the purpose of a double circuit line?

13 A. The purpose of the double circuit goes to the breaker

14 in a half scheme in the switchyard. It provides high

15 reliability such that if a line is lost, we still have

16 capacity to bring the plant to the grid.

17 Q. So both circuits can carry up to five hundred

18 twenty-one megawatts; is that correct?

19 A. Yes, that's correct.

20 HEARING OFFICER GEFTER: Thank you. Any other

21 questions of the witness?

22 Witness may be excused. Thank you.

23 MR. THOMPSON: As our final witness applicant would

24 like to call Mr. Robert Ray. Mr. Ray has been previously

25 sworn.

26 (Pause in proceeding.)

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 BY MR. THOMPSON:

2 Q. Mr. Ray, your testimony today is solely in the issue
3 of LORS: Laws, ordinances, regulations, and standards.

4 Am I correct that you are sponsoring Exhibit 1-7.0
5 LORS and more specifically those LORS that represent a
6 compilation of environmental laws, ordinances, regulations,
7 and standards?

8 A. That's correct.

9 Q. Do you have any corrections, additions, deletions to
10 make to that material?

11 A. I do not.

12 Q. I don't think I'm going to ask you to go through the
13 agony of summarizing laws, ordinances, regulations, and
14 standards.

15 MR. THOMPSON: I will just offer Mr. Ray for
16 cross-examination.

17 HEARING OFFICER GEFTER: Does the staff have any
18 questions of the witness on cross-examination?

19 MR. RATLIFF: No.

20 HEARING OFFICER GEFTER: Do any of the parties have
21 cross-examination of the witness? Committee?

22 COMMISSIONER MOORE: No.

23 HEARING OFFICER GEFTER: Thank you. The witness may
24 be excused.

25 MR. THOMPSON: That completes applicant's prepared
26 case on Facility Design and Geology.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 HEARING OFFICER GEFTER: Thank you. Does staff have
2 a witness on this topic?

3 MR. RATLIFF: We have. We would like to have them
4 come as a panel, if that's acceptable.

5 HEARING OFFICER GEFTER: That would be fine. If we
6 go off the record for a minute.

7 (Pause in proceeding.)

8 HEARING OFFICER GEFTER: Let's go back on the record
9 for staff's witnesses.

10 MR. RATLIFF: Staff has three witnesses in facility
11 design they are Kisabuli, Steve Baker, and Bob Anderson, and
12 they will -- with the exception of Mr. Baker, they will need
13 to be sworn, and Kisabuli will summarize the facility design
14 testimony, and all of them will be available for questions.

15 (Witnesses sworn.)

16 BY MR. RATLIFF:

17 Q. Kisabuli, can you explain who prepared what portions
18 of the staff testimony, what the division of labor was?

19 A. Yes. Al McCuen, who is not here, prepared electrical
20 engineering. Steve prepared mechanical engineering. Bob
21 Anderson prepared engineering geology, and I prepared civil
22 and structural engineering.

23 Q. I will ask you collectively is that testimony true
24 and correct to the best of your knowledge and belief?

25 A. Yes, it is.

26 MR. ANDERSON: Yes.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 MR. BAKER: With the filed errata, yes.

2 BY MR. RATLIFF:

3 Q. There are two pieces of testimony, the staff

4 assessment testimony that was filed as part of the staff

5 assessment, Exhibit 28, and in addition to that there is the

6 supplemental testimony of the same title that was filed as

7 exhibit -- a portion of Exhibit 29; is that correct?

8 A. MR. BAKER: Yes.

9 Q. And you have no further changes to make to that?

10 A. No.

11 Q. Can I ask you, Kisabuli, to summarize the testimony

12 for us?

13 A. Certainly. Facility design is a combination of five

14 technical areas. And these are civil, structural,

15 mechanical, and electrical engineering and geologic hazards.

16 When the application is filed, the project is usually

17 at a conceptual or preliminary design stage, and therefore,

18 in our analysis, we try to verify that applicable laws,

19 ordinances, regulations, and standards have been identified,

20 that the project and ancillary facilities have been

21 described in sufficient detail, including design criteria

22 and analysis methods to provide reasonable assurance that a

23 project can be designed and constructed in accordance with

24 identified applicable LORS and in a manner that protects

25 environmental quality and ensures public health and safety.

26 We also examine whether special design features

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 should be considered during final design to deal with
2 conditions that are unique to the site which would impact
3 public health and safety and environmental protection or the
4 operational reliability of the project.

5 And finally, we establish conditions of certification
6 to ensure that the final design and construction of the
7 project complies with identified facility design LORS and
8 construction inspection will be carried out to satisfy the
9 intent of the LORS and any special design requirements.

10 The power plant site and ancillary facility corridors
11 are located in California Building Code Seismic Zone 4, the
12 highest level of potential for strong ground shaking in
13 California. The project site is located about fifteen
14 kilometers or just under ten miles of the Greenville Fort.
15 However, the project will be design to the Pittsburg Kirby
16 Fault, one of the many active faults in California. The
17 fault is located about two kilometers or about a mile and a
18 quarter from the project site.

19 We had two proposed modification. The first
20 modification deals with the design code. The 1995
21 California Building Code was identified as the applicable
22 code for design of the power plant. We propose the change
23 that to the 1998 California Building Code, and furthermore,
24 in the event that the PDEF is submitted to the chief
25 building official for review when the successor to the 1999
26 California Building Code is in effect, that the 1998

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 successor provision be used.

2 The second modification we have proposed deals with
3 dynamic analysis. We have identified several components,
4 structures, and equipment that require dynamic analysis to
5 comply with section 1629.5 and Table 16M and 16L of the 1998
6 California Building Code. This includes the combustion
7 turbine generator pedestal and foundation, the steam turbine
8 generator pedestal and foundation, the heat recovery steam
9 generator structure and foundation, the exhaust stack and
10 foundation, and the cooling towers. Other structures and
11 components may also be candidates for dynamic analysis.

12 In order to ensure that these structures, components,
13 and pieces of equipment requiring dynamic analysis to comply
14 with the code actually receive this treatment, staff
15 proposes that the applicant and staff agree to a list of
16 such items before the final design. These requirement is
17 incorporated in the proposed condition STRUCTURE-1.

18 Under ancillary facilities we examined the
19 transmission line facilities, the potable water and fire
20 water supply line, the reclaimed water supply and return
21 line, the steam distribution line, and the storm water
22 drainage line.

23 Geologic hazard phenomenon that staff looked at
24 include seismically-induced strong ground shaking, ground
25 rupture to the surface -- liquefaction, differential
26 settlement, hydrocompaction, landsliding, expansive soil,

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 and the design limitations due to surface mineral deposits.
2 The principal geologic hazards at the site are
3 seismically-induced strong ground shake and liquefaction.
4 The power plant has we indicated earlier is located in
5 Seismic Zone 4.

6 Compliance monitoring: Staff has developed
7 conditions of certification to ensure that the design and
8 the construction of the project complies with applicable
9 LORS and is also carried out in a manner that results in the
10 protection of the environment and public health and safety.

11 Some of these facility design conditions address the
12 roles and responsibilities and qualifications of engineers
13 responsible for the design and construction of the project.
14 These are conditions JEN-1 through JEN-9.

15 Engineers responsible for the design of civil,
16 structural, mechanical, and electrical portions of the
17 project are required to be registered in California. Under
18 design and -- submittal of design plans, calculations, and
19 specifications to the chief building officials.

20 This condition also require that no element of
21 construction proceed without approval from the chief
22 building official. The conditions also require that
23 qualified special inspectors be assigned to perform or
24 oversee special inspections required by section 1701 of the
25 1998 California Building Code.

26 Under cumulative impacts, the subject area of

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 facility design does not lend itself to cumulative analysis.

2 Facility closure: We evaluated facility closure
3 under three scenarios: Plant closure, unexpected temporary
4 closure, and unexpected permanent closure, and we proposed
5 our condition of certification JEN-9 to ensure that the
6 measures for facility closure are carried out.

7 Conclusions and recommendations: We have three
8 conclusions and three recommendations. The first conclusion
9 is that the laws, ordinances, regulations, and standards
10 identified in the application and supporting documents are
11 those that apply to the project. Staff has evaluated the
12 application and supplemental documents and the project LORS
13 and design criteria in the record.

14 Staff concludes that the design and construction of
15 the project are likely to apply with applicable LORS. If
16 properly implemented, design criteria, including staff
17 proposed modification, will ensure that the LORS are met
18 during the project design and construction phases.

19 Conditions of certification proposed will ensure that
20 the proposed facilities are designed, constructed, and
21 operated in accordance with applicable LORS. This occurs
22 through the use of design review, plan checking, field
23 inspection, which have to be performed by the local chief
24 building official or other Commission delegate agent. Staff
25 will order the CBO, that's the chief building officer, or
26 delegate agent to ensure satisfactory performance.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Recommendations: If the Commission certified the
2 project, the staff recommends that one, the conditions of
3 certification proposed here be adopted to ensure that the
4 project is designed and constructed to comply with
5 applicable LORS and also to protect environmental quality
6 and assure public health and safety; number two, that the
7 project would be designed and built to 1998 California
8 Building Code or successor edition; and finally, that the
9 chief building official review the final designs, conduct
10 plan checking, and perform field inspection during
11 construction, and that staff monitor and audit the chief
12 building official to ensure satisfactory performance.

13 Those are my summary. Thank you. I lost my train of
14 thought for a minute.

15 MR. RATLIFF: So that completes the summary of the
16 witnesses. They are available for questions.

17 HEARING OFFICER GEFTER: Does applicant have
18 cross-examination?

19 MR. THOMPSON: Just a couple of questions.

20 BY MR. THOMPSON:

21 Q. For whomever panel wishes to address. Number one,
22 has the 1998 California Building Code been adopted?

23 A. Yes, it has.

24 Q. Do you know when the next scheduled California
25 Building Code or Uniform Building Code would come about?

26 A. The year 2000.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Q. So you are suggesting that the applicant use the 1998
2 code. And if we do not start construction before the year
3 2000 building code becomes adopted, we should use the year
4 2000 -- I'm trying to figure out how --

5 A. MR. BAKER: What we're recommending is that when the
6 first designs are submitted for plan checking approval --

7 (Discussion off the record.)

8 MR. BAKER: We're recommending that when the first
9 designs are submitted for plan check and approval, that the
10 code in effect at that time be used for the entire project.

11 MR. THOMPSON: Terrific. Thank you very much.
12 That's all we have.

13 HEARING OFFICER GEFTER: Did the reporter get --

14 Are there any other questions for the panel of
15 witnesses? From the committee?

16 COMMISSIONER MOORE: Negative.

17 MR. PITTARD: I have just a couple.

18 BY MR. PITTARD:

19 Q. I have a question about the chief building official.

20 Will that be Contra Costa County or city of
21 Pittsburg?

22 A. MR. BAKER: City of Pittsburg indicated they wish to
23 act as the CBO on this project.

24 Q. Will they be able to perform all the analysis
25 themselves, or will they need to contract out to a third
26 party?

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 A. We've been told they have to contract out some or all
2 of the work.

3 Q. The CBO is paid by who?

4 A. By the applicant.

5 Q. So the applicant will be required for paying any fees
6 then to the CBO?

7 A. Yes.

8 MR. PITTARD: Very good. Thank you.

9 HEARING OFFICER GEFTER: Are there any other
10 questions of the witnesses?

11 MR. THOMPSON: None from applicant.

12 HEARING OFFICER GEFTER: Thank you. Witnesses may be
13 excused.

14 Now we move on to our housekeeping tasks at the end
15 of these hearings. First of all --

16 MR. RATLIFF: Excuse me. Ms. Gefter, we asked that
17 we consider recalling Mr. Jerome from the city just for a
18 couple of questions.

19 HEARING OFFICER GEFTER: Yes, I planned to do that.
20 I'm sorry. Bypass that.

21 Mr. Jerome, will you please come forward. We have a
22 couple more questions for you, and you've already been
23 sworn. Thank you.

24 BY MR. RATLIFF:

25 Q. Mr. Jerome, last night there was a discussion in the
26 hearing on Traffic and Transportation concerning the

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 maintenance of the median park on 8th Street and the ball
2 field.

3 And the question I wanted to ask you is would the
4 city maintain those facilities to the extent that they were
5 on city property?

6 A. Yes, they would.

7 Q. And what monies would they use to make --

8 A. The city has a special lighting and landscape
9 assessment district which assesses all properties within the
10 city of Pittsburg for the purposes of specifically
11 maintaining landscaping or maintaining parks and landscaping
12 within right-of-ways as well as lights, and those monies
13 would be earmarked for that maintenance.

14 Q. So you would propose to include them within the
15 assessment -- the coverage of the assessment district?

16 A. That's correct.

17 Q. And that portion of the median park that is on Posco
18 property, who would be responsible for maintaining that
19 portion of it?

20 A. That I am unable to answer. I'm not sure whether or
21 not the city has any contracts with Posco to maintain that,
22 so I'm unable to say.

23 MR. RATLIFF: Okay. Thank you.

24 HEARING OFFICER GEFTER: Are there any other
25 questions of Mr. Jerome? From any of the parties? From the
26 committee? Thank you very much.

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 Now we'll move on to the housekeeping issues. When
2 we close these hearings today, the record will be closed on
3 all the topics that we've taken testimony on except for
4 portions of Public Health, which might be changed or
5 modified by testimony on Air Quality. The record will be
6 open to take testimony on Air Quality and on cumulative
7 impacts on Water Resources. Tentatively that hearing is
8 scheduled for May 26th at this point. Written testimony on
9 those topics will be due on May 14th.

10 The notice of hearing for May 26th is pending. That
11 will depend on the outcome of the meeting between staff, the
12 EPA, and the Air District on Wednesday.

13 As we stated at the beginning of these hearings, the
14 PMPD will not be issued until after the final DOC is issued
15 by the Air District, and we allow time for review of the
16 FDOC, filing of testimony, and then we will conduct a
17 hearing on the FDOC.

18 The briefs on the portion of the testimony and the
19 evidence that have been submitted so far will be due on May
20 10th, according to the committee's scheduling order. The
21 briefs will be on all topics on which evidence was presented
22 to date, except for Air Quality and cumulative impacts on
23 Water Resources.

24 What we'd like to see in the briefs are any
25 amendments or changes that might have been discussed with
26 respect to conditions and any other -- focusing more on any

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 changes or any modifications that may have occurred during
2 the presentation of testimony and evidence so far.

3 The other topic that the committee would like to see
4 addressed in the briefs would be proposed language that
5 might address some of the concerns that were raised by
6 residents of city of Pittsburg with respect to developing
7 the bypass road and the parks.

8 And the language that we would be looking for is
9 something to the effect that the applicant, the city of
10 Pittsburg, and local residents will work together to develop
11 a plan to landscape and to develop the linear park and to
12 work on the ball field park and the overcrossing to the
13 park. Those were issues that were raised.

14 We anticipate that the parties, the city of
15 Pittsburg, the applicant, and the local residents can
16 continue to work towards resolution, and if we can have some
17 language to that effect, I expect that this would be
18 primarily in the brief from the applicant. That would be
19 helpful to the committee.

20 Committee members have any other items that they
21 would like to see in opening briefs?

22 The reply briefs, if necessary, would be due May
23 17th. It would be within the choice or option of the
24 parties if they wish to file reply briefs.

25 At this point the committee schedule has stated what
26 the Presiding Member's Proposed Decision will be issued June

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 14th. This may not be possible depending on the release of
2 the final DOC and when we can take testimony on that, so
3 that date will be pending as well.

4 We are looking for the 1991 EIR from city of
5 Pittsburg that will be docketed. We are looking for a copy
6 of the Corrective Measures Study that was referred to
7 yesterday as Exhibit 40. We would also like to see that
8 docketed, put into the record.

9 Are there any other housekeeping measures that any of
10 the parties would like to make?

11 MR. THOMPSON: Just a couple comments: Exhibit 40 is
12 being served today.

13 HEARING OFFICER GEFTER: I do not know.

14 MR. THOMPSON: No. I do. I made copies this morning
15 starting at 5:00, got them out at 8:00, so they should be
16 going out this morning.

17 HEARING OFFICER GEFTER: They will be going to the
18 docket in Sacramento?

19 MR. THOMPSON: Yes. And served on all parties.

20 HEARING OFFICER GEFTER: Thank you.

21 MR. THOMPSON: Secondly with regard to scheduling the
22 26th, could you clarify what will occur at the staff EPA
23 meeting that will either firm up the 26th or take it off
24 calendar or whatever?

25 HEARING OFFICER GEFTER: What the -- a possibility,
26 nobody knows until the meeting occurs, the EPA has in

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 previous cases, such as High Desert, required a second
2 preliminary DOC prior to the issuance of a final DOC, and we
3 would like to find out if that will be required in this case
4 as well based on the EPA's comments, so that may impact
5 testimony on Air Quality.

6 (Discussion off the record.)

7 HEARING OFFICER GEFTER: Mr. Pittard wanted to know
8 if we wanted a separate hearing on cumulative impacts on
9 water. I would prefer to have the hearing at one time in
10 one place, so we will hold a hearing on that as well. It
11 would depend on what occurs at the meeting with the EPA, Air
12 District, and ourselves with respect to whether or not there
13 will be a new preliminary DOC, then, that would impact Air
14 Quality testimony, so we will send out a notice scheduling
15 hearing on Air Quality after Wednesday, which would be
16 tomorrow.

17 MR. THOMPSON: I would just -- it may be that
18 applicant can find a way around or through the offsets
19 difficulty and may be able to get an FDOC issued prior to
20 the period of time we would normally take, whenever the
21 district gets its offset for comments.

22 HEARING OFFICER GEFTER: That would be fine. Ask the
23 applicant to notify us if that's possible. If there's an
24 expedite schedule to get the FDOC, we will need to know
25 that. We will be in consultation, probably, tomorrow
26 afternoon, Wednesday afternoon with all the parties to

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 schedule the hearing on Air Quality.

2 Are there any other housekeeping measures?

3 MS. WHITE: If there is specific information the
4 applicant currently has on their proposal to negotiate other
5 offset options that I might be able to share with the
6 parties at tomorrow's meeting, I will be happy to do so.

7 HEARING OFFICER GEFTER: Maybe we can discuss this
8 off the record, but I would like to close the items still
9 pending today with respect to testimony and evidence we've
10 taken at this point.

11 Hearing no other comments, unless staff has another
12 comment?

13 MS. WHITE: In terms of the housekeeping measures,
14 it's my understanding that in staff's briefs to be submitted
15 May 10th, we will cover the changes as discussed in these
16 hearings for Cultural Resources, Biological Resources,
17 Paleontological Resources, Facility Closure and Compliance,
18 Noise, and Waste Management. To the extent that public
19 health will need to reflect any changes, we would reserve
20 submitting those changes after the Air Quality hearings.

21 HEARING OFFICER GEFTER: Thank you.

22 MS. WHITE: Is that the committee's understanding?

23 HEARING OFFICER GEFTER: Yes. Thank you.

24 At this point, then, the record is closed, except for
25 testimony on Air Quality, cumulative impacts on Water
26 Resources, and to the extent that Public Health testimony is

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 impacted by new Air Quality testimony. The hearing is
2 adjourned.

3 (Whereupon the hearing
4 concluded at 10:38 a.m.)

5 ///

6 ///

7 ///

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26

REPORTER'S CERTIFICATE

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF SACRAMENTO)

4

5 I, KELI RUTHERDALE, a Certified Shorthand
6 Reporter licensed by the State of California, and empowered
7 to administer oaths and affirmations pursuant to Section
8 2093(b) of the Code of Civil Procedure, do hereby certify:

9 That the said proceedings were recorded
10 stenographically by me and were thereafter transcribed by me
11 via computer-assisted transcription;

12 That the foregoing transcript is a true record
13 of the proceedings which then and there took place;

14 That I am a disinterested person to said
15 action.

16 IN WITNESS WHEREOF, I have subscribed my name
17 on May 10th, 1999.

18

19

20

21 _____
 KELI RUTHERDALE
 Certified Shorthand Reporter #10084

22

23

24

25

26

NORTHERN CALIFORNIA COURT REPORTERS (916) 485-4949

